

**At a Regular Meeting of the Town Council of the Town of Middletown,
RI held at the Middletown Town Hall on Tuesday, January 20, 2015 at
5:30 P.M.**

Council President Robert J. Sylvia, Presiding

Vice President Robert Kempenaar, II

Councillor Henry F. Lombardi, Jr.

Councillor Paul M. Rodrigues

Councillor M. Theresa Santos

Councillor Antone C. Viveiros

Councillor Barbara A. VonVillas, Members Present

PLEDGE OF ALLEGIANCE TO THE FLAG

RECONSIDERATION

The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:

If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)

EXECUTIVE SESSION

1. Executive Session - Pursuant to provisions of RIGL, Sections 42-46-2, 42-46-4 and 42-46-5 (a) (2) Collective Bargaining - NEA Middletown - Certified Teachers, Middletown Association of Auxiliary Personnel/NEARI/NEA – Teacher Assistants RI Council 94, AFSCME, AFL-CIO, Local #1823 and (2) Collective Bargaining NEARI (Town Hall).

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 5:32 pm.

Councillor Rodrigues recused himself from executive session at 5:33 pm; left the session, due to a possible conflict of interest.

Councillor Lombardi recused himself from executive session at 5:33 pm; left the session, due to a possible conflict of interest.

On motion of Councillor Santos, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 6:05pm.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to recess this meeting at 6:06 pm.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to reconvene this meeting at 6:10 pm.

SCHOOL COMMITTEE - PRE-BUDGET CONSULTATION

2. Pursuant to - “§ 16-2-21 Pre-budget consultation – Annual reports – Appropriation requests – Budgets. – (a) At least sixty (60) days but not more than ninety (90) days prior to the formal submission of the

school budget to the appropriate city or town officials by the school committee, there shall be a joint pre-budget meeting between the school committee and the city or town council(s). At or before this meeting:"

(1) "The highest elected official of the city or town shall submit to the school committee an estimate, prepared in a manner approved by the department of administration, of projected revenues for the next fiscal year. In the case of the property tax, the projections shall include only changes in the property tax base, not property tax rates;"

(2) "The school committee shall submit to the city or town council a statement for the next ensuing fiscal year of anticipated total expenditures, projected enrollments with resultant staff and facility requirements, and any necessary or mandated changes in school programs or operations".

Also, present were Town Administrator Shawn Brown, Finance Director Lynne Dible, Deputy Finance Director Marc Tanguay, Deputy

Town Clerk Karin Clancey and Town Solicitor Peter B. Regan.

Present, representing the School Department, were Superintendent Rosemarie Kraeger, Assistant Superintendent Linda Savastano, Business Manager Raquel Pellerin, Attorney Ben Scungio, School Committee Chair Theresa Spengler, Vice Chair Kellie DiPalma, and members Liana Ferreira Fenton, Douglas Arnold, and William O'Connell.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to begin said meeting with the School Committee and Administration.

3.

Communication of Robert J. Sylvia, President, Middletown Town Council, with enclosure, re: Information in accordance with RIGL 16-2-21.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication.

4. Receipt of Revenue Manual.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said Revenue Manual.

5. Memorandum of Theresa Spengler, School Committee Chair, with enclosures, re: Pre-Budget Consultation FY 2015-2016. (Documentation to follow)

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said memorandum.

Town Administrator Shawn Brown reviewed items #3 and #4, entered above, along with the following presentation, entered here:

Superintendent Rosemarie Kraeger reviewed item #5, entered above. Ms. Kraeger noted that the School Committee is not requesting 4% and is committed to seeking efficiencies in the budget.

6:30 PM - LEGISLATIVE AGENDA

6. Town's legislative concerns to be addressed at the 2015 session of the General Assembly – with the Town's General Assembly delegation. (No Documentation)

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to begin said discussion of the Town's legislative agenda with General Assembly delegation.

Present also were State Senator Louis P. DiPalma, State Representative Deborah Ruggiero and State Representative Daniel Reilly.

Also, present were Town Administrator Shawn Brown, Finance Director Lynne Dible, Deputy Finance Director Marc Tanguay, Deputy Town Clerk Karin Clancey and Town Solicitor Peter B. Regan.

Present, representing the School Department, were Superintendent Rosemarie Kraeger, Assistant Superintendent Linda Savastano, Business Manager Raquel Pellerin, Attorney Ben Scungio, School Committee Chair Theresa Spengler, Vice Chair Kellie DiPalma, and members Liana Ferreira Fenton, Douglas Arnold, and William O'Connell.

Superintendent Rosemarie Kraeger reviewed the

following:

Discussion centered around being mindful of the budget, school housing moratorium, the inability to hang physical banners to advertise at athletic fields, group home reimbursement, loss of state aid, moratorium on expansion of Charter schools, and Superintendent Kraeger working together with Councillor Lombardi to prepare a resolution in support of advertising at athletic fields.

Senator Louis P. DiPalma reviewed the following, entered here:

Middletown Prevention Coalition Chair Susan Schneck reviewed the following, entered here:

Town Administrator Shawn Brown noted that a formal list of legislative agenda items will be prepared.

Discussion centered around motor vehicle tax, pilot program,

marijuana violations should not be sent to RITT, and the need for local marijuana control.

PRESENTATIONS

7. At the request of Council President Sylvia, re: Citation – MHS Football Team for their Division III Championship Victory.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to begin said presentation.

Council President Sylvia presented MHS Football Coaches and Team with a citation and football signed from the Town Council.

8. At the request of Councillor Lombardi, re: Citations – John Bergstrom, Ian Bulpett, Camden Cook, Michael Ganno and Max

Regine in recognition of attaining rank of Eagle Scout.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to begin said presentations.

Councillor Lombardi presented citations to Eagle Scouts John Bergstrom, Ian Bulpett, Camden Cook, Michael Ganno and Max Regine. Ian Bulpett was unable to attend; his brother accepted the citation on his behalf.

Councillor Lombardi recognized Jim Fowler Scout Master and presented him with a Town tile.

PUBLIC FORUM

9. Pursuant to Rule 23 of the Rules of the Council, Citizens may

address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting. All items discussed during this session will not be voted upon.

No one spoke during this session.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to act as a Board of License Commission.

Vice President Kempenaar recused himself from acting on the following item of business, #10, due to a possible conflict of interest.

BOARD OF LICENSE COMMISSION

10. (Advertised; Abutters notified)

Application of Chipotle Mexican Grill of Colorado, LLC dba Chipotle Mexican Grill for a Retailer's Class BV Alcoholic Beverage License for the 2014-2015 licensing year on premises located at 11 East Main Road, Middletown, Rhode Island.

Public Hearing was declared open.

Attorney John J. Garrahy was present representing Chipotle Mexican Grille, noting the establishment will be the eighth in Rhode Island and expects to open in May of this year.

There being no persons present desiring to be heard public hearing is declared closed.

On motion of Council President Sylvia, duly seconded, it was voted

unanimously to grant said license.

On motion of Council President Sylvia, duly seconded, it was voted unanimously to reconvene as a Town Council.

Vice President Kempenaar requested that items #14, #16, #18 and #19 be heard under the regular portion of the docket.

CONSENT

11. Approval of Minutes, re: Regular Meeting, December 15, 2014.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to approve said minutes

12.

Communication of Tax Assessor and Finance Director dated January 8, 2015, with enclosures, re: Cancellation of Taxes for certain Middletown residents.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication.

13. Resolution of the Council, re: Cancellation of Taxes for certain Middletown residents.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to pass said resolution.

14. Communication of Tax Assessor and Finance Director dated January 12, 2015, with enclosures, re: Cancellation of Taxes for

certain Middletown residents.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication.

Councillor Santos questioned dates of the listed abatements.

15. Resolution of the Council, re: Cancellation of Taxes for certain Middletown residents.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to pass said resolution.

16. Communication of Tax Assessor, with enclosures, re: Cancellation of Taxes for certain Middletown residents.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication.

Councillor Santos questioned dates of the listed abatements.

17. Resolution of the Council, re: Cancellation of Taxes for certain Middletown residents.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to pass said resolution.

18. Communication of Finance Director and Accounting Manager, thru Town Administrator, with enclosure, re: Quarterly Tax Collector's Report as of 12/31/2014-Town of Middletown.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication and Tax Collector's Report.

Councillor Rodrigues requested the Town Administrator to review the report for the residents.

Town Administrator Shawn Brown reviewed the Tax Collector's Report, entered above.

19. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: FY 2014 Town of Middletown Financial Audit Report.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said memorandum and Audit Report.

Councillor Rodrigues requested the Town Administrator to review the report for the residents.

Finance Director Lynne Dible reviewed the memorandum outlining the Audit report, entered above.

20. Communication of Denise Panichas, Executive Director, The Samaritans of Rhode Island, with enclosure, re: Appreciation for support.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication.

21. Communication of Newport County Special Olympics Team, re: Appreciation for support.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication.

22. Letter from East Greenwich Town Council, re: Requesting State Planning Council not vote on the adoption of RhodeMap RI.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication.

23. Resolution of the Town of Hopkinton, re: Requesting to postpone the Dec. 11th, 2014 adoption of the “economic development plan” known as RhodeMapRI.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said resolution.

24. Resolution of the Town of Foster, re: To postpone the Dec. 11th, 2014 adoption of the “economic development plan” known as RhodeMapRI.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said resolution.

25. Notice of Public Hearing from the Middletown Zoning Board of Review, re: Petition of Newport Landings, LLC by their attorney Patrick O’N. Hayes, Jr. -for a Special Use Permit from Sections 602, 803 and 1501- 1508 to add 22 additional two bedroom apartments by converting twenty-two 4 bedroom apartments, each with 2 existing kitchens, into forty-four 2 bedroom apartments on said real estate located at Coddington Highway, TAP 102 Lot 2.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said Notice of Public Hearing.

26. Notice of Public Hearing from the Middletown Zoning Board of Review, re: Petition of Newport Landings, LLC by their attorney Patrick O’N. Hayes, Jr. -for a Variance from Sections 1504 & 1304 – to convert twenty-two 4 bedroom apartments, each with 2 existing kitchens, into forty-four 2 bedroom apartments on a lot with 1,131,374 s.f., where 2,264,000 s.f. is required; and to allow 97 additional parking spaces on existing streets within the development resulting in a total of 508 spaces where 536 are required on said real estate located at Coddington Highway, TAP 102 Lot 2.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said Notice of Public Hearing.

27. Application of Rhode Island Rugby Football Foundation for a Special Event Permit, Event – Beast of East Rugby Tournament. Requesting the use of Sachuest Beach Parking lot on April 18th and April 19th , 2015 for parking. The event is held in Portsmouth, RI and participants will be shuttled from Sachuest Beach to Gardener Seveney Sports Complex.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to grant said Special Event Permit.

28. Application of Peter C. Flynn of Middletown, for a License of Burial, Middletown Cemetery, Section 53, Graves 224 and 225.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to grant said license.

29. Application of Peggy Stith of Newport, for a License of Burial, Middletown Cemetery, Section 49, Grave 53.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to grant said license.

Vice President Kempenaar recused himself from acting on the following item of business, #30, due to a possible conflict of interest.

LICENSES

30. Application of Chipotle Mexican Grill of Colorado, LLC dba Chipotle Mexican Grill, 11 East Main Road for a Victualling House License for the 2014-2015 licensing year. (NEW)

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to grant said license contingent on Building Official, Fire Marshal, Public Works and Board of Health approvals.

31. Application of Michael Kosinski dba Little Creek Landscaping, 414 Mitchell's Lane, for a Drain Layers License for the 2015-2016 licensing year. (NEW)

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to grant said license.

ORDINANCE

32. An Ordinance of the Town of Middletown (Second Reading)

An

Ordinance in amendment to the Town Code of the Town of Middletown, Title III, Administration, Chapter 36, Fee Schedule, (47) Fire Plan Review.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to adopt said ordinance on its second reading.

OTHER COMMUNICATIONS

33.

**Memorandum of Gladys B. Levine, Chair, Middletown Planning Board,
with enclosure, re: Middletown Comprehensive Community Plan.
(Requires Advertising for Public Hearing)**

**On motion of Vice President Kempenaar, duly seconded, it was voted
unanimously to receive said memorandum and advertise for public
hearing to be held on February 17, 2015.**

**Councillor Santos recused herself from acting on the following item
of business #34, due to a possible conflict of interest.**

**Councillor Rodrigues recused himself from acting on the following
item of business #34, due to a possible conflict of interest.**

34. Communication of William H. Nedderman, Jr., President, Middletown Historical Society, re: Request for additional funding for expenses incurred repairing Paradise School.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said communication.

Council President Sylvia noted the Historical Society does an outstanding job.

Council President requested to entertain a motion, Councillor Viveiros moved, duly seconded, it was voted unanimously to grant said request and authorize \$13,458.00 in reimbursement costs to the Middletown Historical Society for repairs at the Paradise School.

TOWN ADMINISTRATOR

35.

Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Bequest to the Town of Middletown from the Estate of Marie L. Betty.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said memorandum.

Town Administrator Shawn Brown reviewed the memorandum above.

Council President Sylvia thanked the Betty family for their generous donation to the Town.

36. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Fire/DPW Facility Construction Progress Report as of

12/31/2014.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said memorandum.

Town Administrator Shawn Brown noted the project may be ready in the spring. Mr. Brown reviewed the memorandum above.

Fire Chief Ronald Doire thanked the Betty family for their donation. Mr. Doire noted that the biggest issues are behind us now. Mr. Doire explained the next step is to move the Fire department to Public Works temporarily and noted that there has been no disruption in service to the Town.

Discussion centered around the location of the emergency generator for the facility, the repayment of the bond, grant funding for the project, change orders and paving of the parking lot.

Public Works Director Tom O'Loughlin noted the original scope for the parking lot did not include paving the entire parking lot.

37. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Contract Award: MIDD-015-003 Maidford River Watershed Assessment & BMP Design.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said memorandum.

Town Administrator Shawn Brown reviewed the memorandum entered above.

Town Engineer Warren Hall noted that the Maidford River Watershed Assessment will address water quality and flooding issues for the Maidford River. There will be ten individual projects and the staff will

choose five.

Councillor Rodrigues questioned if the Town would be able to clean the brooks.

Town Engineer Warren Hall, responding to Councillor Rodrigues, noted that he will inquire the benefit to the Town of cleaning the brooks.

38. Resolution of the Council, re: Contract Award: MIDD-015-003 Maidford River Watershed Assessment & BMP Design.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to pass said resolution.

39. Memorandum of Town Administrator, with enclosures, re:

Consulting Services-East Side Water Line.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said memorandum.

Town Administrator Shawn Brown reviewed the memorandum above.

40. Resolution of the Council, re: Award of Contract for Consulting Services-East Side Water Line.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to pass said resolution.

41. Memorandum of Finance Director, thru Town Administrator, with enclosures, re: Town Pension Plan Actuarial Valuation Report for the plan year July 1, 2014 – June 30, 2015.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said memorandum.

Finance Director Lynne Dible reviewed the memorandum, entered above.

APPOINTMENT TO BOARDS AND COMMITTEES

42.

Memorandum of Council President Sylvia, re: Municipal Court Judge Appointment.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said memorandum.

Council President Sylvia noted that the item was placed on the docket to establish a method to appoint a Municipal Court Judge.

On motion of Councillor Rodrigues, duly seconded, it was voted unanimously to utilize the application forms and advertisement approved by the Town Solicitor, prepared by the Town Administrator, advertise for three weeks, applications returned to the Town Clerk's Office, to be reviewed by the Town Solicitor for eligibility; Town Solicitor to establish eligibility list to be presented to the Town Council, schedule interviews for the candidates and appoint a Municipal Court Judge at the February 17, 2015 Regular Meeting of the Council.

43. Communication of Joseph P. Marnane, re: Resignation from the Middletown Planning Board.

On motion of Vice President Kempenaar, duly seconded, it was voted

unanimously to receive said communication and resignation with regret.

ADDENDUM TO TOWN COUNCIL AGENDA

POSTED – January 14, 2015

REGULAR MEETING – January 20, 2015

OTHER COMMUNICATION

44.

Memorandum of Rosemarie K. Kraeger Superintendent of Schools,

re: Impact Fees.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to receive said memorandum.

Superintendent Rosemarie Kraeger reviewed the memorandum, entered above.

School Committee Chair Theresa Spengler noted the need for pre-kindergarten, due to more residents joining our community.

Town Solicitor Peter B. Regan explained that impact fees must be used within an eight year period, an extension may be granted if there is compelling information. Mr. Regan noted that the memorandum provided by the school department requires more specific information with supporting documentation. The case is not made within the current memorandum.

Discussion centered around the need and time allowed for the school department to provide more information/documentation for use of the impact fees, increase capacity of students, school facilities plan, deadline extensions for use of impact fees, school department supplying information to the Town Solicitor and Town Administrator by February 2, 2015 and present to the Council on February 17, 2015.

On motion of Councillor Lombardi, duly seconded, to provide a 30 day extension to the School department to provide a plan to the Town Administration for review by February 2, 2015

Town Administrator Shawn Brown reviewed the following RIGL statute, entered here:

Town Solicitor Peter B. Regan noted that an extension can only be provided for a compelling reason.

Councillor Lombardi amended the motion to allow for a 60 day extension, duly seconded; all voted in favor.

A vote was taken, duly seconded, on the motion as amended, all in favor.

On motion of Vice President Kempenaar, duly seconded, it was voted unanimously to recess open session and reconvene in executive session at 9:08 pm.

Councillor Rodrigues recused himself from executive session at 9:08 pm; left the session, due to a possible conflict of interest.

On motion of Councillor Viveiros, duly seconded, it was voted unanimously to recess executive session and reconvene in open session at 9:35pm.

On motion of Councillor VonVillas, duly seconded, it was voted unanimously to seal the executive session minutes pursuant to Section 42-46-7. RIGL.

On motion of Council VonVillas, duly seconded, it was voted unanimously to adjourn said meeting at 9:37 pm.

Wendy J.W. Marshall, CMC

Council Clerk

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